

Appl. No.: 09/787,190
Group Art Unit: 1617

REMARKS

Claims 7-25 are currently pending in the present application.

Claim 7 has been amended to specify that the cosmetic or pharmaceutical composition comprises an emulsion which contains an oil phase and an aqueous phase. Claim 17 has been amended to specify that the composition includes an aqueous phase. Applicants submit that the amendments to claims 7 and 17 made herein will place the application in a condition for allowance, as discussed below. Support for these amendments can be found in the Specification, for example, at page 3, lines 5-30, wherein oil components and emulsifiers are described; and in the Examples wherein the inventive formulations are specifically referred to as "emulsions". (See, Applicants' Specification, page 18, line 1). No new matter has been introduced by the amendments made herein. Additionally, a page captioned "VERSION WITH MARKINGS TO SHOW CHANGES MADE", in accordance with 37 C.F.R. §1.121(c)(1)(ii), is attached hereto. Entry of the amendments to the claims is therefore proper and respectfully requested.

Withdrawal of the rejections under 35 U.S.C. §112, as previously set forth in Paper No. 10, is gratefully acknowledged.

In Paper No. 12, the Examiner maintains her rejection of claims 7-9, 13 and 15 under 35 U.S.C. §102(a) and (e), as being anticipated by U.S. Pat. No. 5,993,787 of Sun, *et al.* (hereinafter referred to as "Sun"). The Examiner also maintains her rejection of claims 7-9, 13 and 15 under 35 U.S.C. §102(a) and (e), as being anticipated by U.S. Pat. No. 5,993,787 of Sun, *et al.* (hereinafter referred to as "Sun"). Finally, the Examiner also maintains all three rejections based on 35 U.S.C. §103(a); including her rejection of claims 7-10, 13-15 and 17-24, as being unpatentable over U.S. Pat. No. 5,540,853 of Trinh, *et al.* (hereinafter referred to as "Trinh"), her rejection of claims 7-12, 15 and 17-24, as being unpatentable over U.S. Pat. No. 4,801,331 of Murase (hereinafter referred to as "Murase"), and her rejection of claims 13, 14, 16 and 25, as being unpatentable over Trinh, in view of Murase. The Examiner maintains all five rejections for the reasons of record set forth in Paper No. 10, and further argues that Applicants' arguments submitted on July 24, 2002, in response to Paper No. 10, were not commensurate in scope with

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the claims. Specifically, the Examiner points out that an aqueous phase is not recited in the claims and cannot be a distinguishing feature of the claimed invention.

Applicants have amended independent claims 7 and 17 to require the presence of an aqueous phase. The inventive formulations are emulsions, as specifically described in Applicants' Specification. The emulsions contain water and an oil component, along with the claimed cyclic carbonate.

Accordingly, Applicants respectfully traverse the Examiner's rejections, and the arguments and contentions in support thereof. The rejected claims, as amended herein, are not directed to the topical application of "the cosmetic composition shown in [the cited references]".

In contrast to the claimed invention, the Sun reference teaches "[e]ntirely anhydrous" topical preparations. (See, Sun abstract). The compositions taught by Cowton contain little, if any, water. Trinh also fails to teach the use of propylene carbonate in an aqueous cosmetic composition. Lastly, Murase fails to teach a method of contacting a substrate to be moisturized with a cosmetic formulation comprising a cyclic carbonate

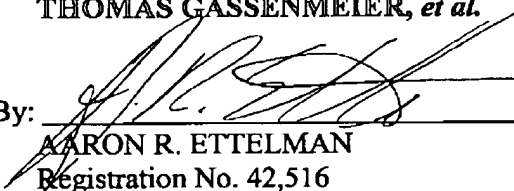
In view of the amendments made herein and the remarks set forth above, Applicants submit that all pending claims patentably distinguish over the prior art of record and known to Applicants, either alone or in combination. Accordingly, reconsideration, withdrawal of the rejections and a Notice of Allowance are respectfully requested.

Respectfully submitted,

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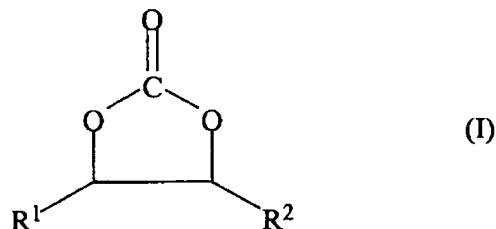
VERSION WITH MARKINGS TO SHOW CHANGES MADE

In the Claims:

Claims 7 and 17 have been amended, as follows:

--7. (Amended) A method of moisturizing a substrate, said method comprising:

- (a) providing a substrate to be moisturized;
- (b) providing a cosmetic or pharmaceutical composition comprising an emulsion having an oil phase and an aqueous phase, the emulsion comprising a cyclic carbonate of the general formula (I):



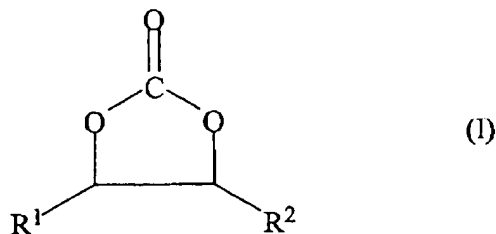
wherein R¹ and R³ each independently represent hydrogen or a linear or branched alkyl group having from 1 to 4 carbon atoms, and R² represents a linear or branched alkyl group having from 1 to 4 carbon atoms or -CH₂OR³; and

- (c) contacting the substrate with the cosmetic composition.--

--17. (Amended) A method of enhancing the moisturizing properties of a cosmetic and/or pharmaceutical preparation, said method comprising:

- (a) providing an aqueous composition comprising at least one cosmetic or pharmaceutical active substance;
- (b) providing a cyclic carbonate of the general formula (I):

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wherein R^1 and R^3 each independently represent hydrogen or a linear or branched alkyl group having from 1 to 4 carbon atoms, and R^2 represents a linear or branched alkyl group having from 1 to 4 carbon atoms or $-CH_2OR^3$; and

(c) combining the composition and the cyclic carbonate.--